



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Agriculture

- ☒ Preproposal Statement of Inquiry was filed as WSR 04-22-093; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) WAC 16-319-041 – Application for certification of forest reproductive material and the following "Promulgation" sections: WAC 16-319-001, WAC 16-319-002, WAC 16-319-003, WAC 16-319-004, WAC 16-319-006 and WAC 16-319-007.

Hearing location(s):

Washington State Department of Agriculture
21 North First Avenue
Suite 103 Conference Room
Yakima, WA 98902

Date: January 31, 2005 Time: 11:00 a.m.

Submit written comments to:

Name: George Huffman
Address: Department of Agriculture
P.O. Box 42560, Olympia, WA 98504-2560
e-mail ghuffman@agr.wa.gov
fax (360) 902-1802 by 5:00 p.m. on January 31, 2005

Assistance for persons with disabilities: Contact

Virginia Walsh by January 24, 2005

TTY (360) 902-1976

Date of intended adoption: February 14, 2005
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: WAC 16-319-041 – Application for certification of forest reproductive material. In addition the following Promulgation sections; WAC 16-319-001, WAC 16-319-002, WAC 16-319-003, WAC 16-319-004, WAC 16-319-006, WAC 16-319-007.

This proposal is intended to assure that fees charged for the certification of forest reproductive material are sufficient to recover the costs of providing said services. Certification fees for forest reproductive material would be increased by the OFM fiscal growth rate factor for the fiscal year 2005 (3.03%).

In addition this proposal is intended to repeal several "Promulgation" sections that are an outdated method of rule making and are no longer needed.

Reasons supporting proposal: The proposed fee increases are necessary to help offset inflationary increases in the cost of operating the Washington State Crop Improvement Association.

Statutory authority for adoption: Chapter 34.05 RCW and
RCW 15.49.370(3) and 15.49.310

Statute being implemented: 15.49.370(3) RCW

Is rule necessary because of a:

- Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION:

DATE

December 22, 2004

NAME (type or print)

Robert W. Gore

SIGNATURE

TITLE Assistant Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

DEC 22 2004

TIME 1118

WSR 05-01-232

AM PM

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

none

Name of proponent: (person or organization) Washington State Crop Improvement Association

- ☒ Private
☐ Public
☐ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Victor Shaul	Yakima	(509) 225-2630
Implementation.... Victor Shaul	Yakima	(509) 225-2630
Enforcement..... Fawad Shah	Yakima	(509) 225-2630

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

WSDA concludes that the proposed increases in current fees, based upon the OFM fiscal growth rate factor, does not impose a "more than minor cost" on the seed industry and, therefore, a SBEIS is not required according to RCW 19.85.030 (1)(a).

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i) and, therefore, a cost-benefit analysis is not required.

AMENDATORY SECTION (Amending WSR 04-06-028, filed 2/24/04, effective 3/26/04)

WAC 16-319-041 Application for certification of forest reproductive material. (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: Provided, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: Provided, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field Inspection	Audit	Fee Due
Tested and Selected	\$ ((26.41)) <u>27.00/hr.</u>	\$ ((26.41)) <u>27.00/hr.</u>	When billed
Source Identified Classes:			
Lots 11 bu. and more	\$ ((9.86)) <u>0.88/bu.</u>	\$ ((26.41)) <u>27.00/hr.</u>	
Lots 6-10 bu.	\$ ((21.25)) <u>21.89/lot</u>	\$ ((26.41)) <u>27.00/hr.</u>	
Lots 0-5 bu.	\$ ((12.85)) <u>13.00/lot</u>	\$ ((26.41)) <u>27.00/hr.</u>	
Audit	None	\$ ((26.41)) <u>27.00/hr.</u>	When billed

(b) Tree certification - ~~\$ ((26.41))~~ 27.00/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits (~~((totalling))~~ totaling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at

\$ ((~~26.41~~)) 27.00/hr. payable when billed.

(d) OECD certification (certificates of provenance) - \$ 0.60 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-319-001	Promulgation.
WAC 16-319-002	Promulgation.
WAC 16-319-003	Promulgation.
WAC 16-319-004	Promulgation.
WAC 16-319-006	Promulgation.
WAC 16-319-007	Promulgation.